

Title 38: WATERS AND NAVIGATION
Chapter 16-B: MERCURY-ADDED PRODUCTS AND
SERVICES HEADING: PL 1999, c. 779, §2 (new)

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Maine Revised Statutes
Title 38: WATERS AND NAVIGATION
Chapter 16-B: MERCURY-ADDED PRODUCTS AND
SERVICES HEADING: PL 1999, c. 779, §2 (new)

§1661. DEFINITIONS

For the purposes of this chapter, unless the context otherwise indicates, the following terms have the following meanings. [2001, c. 656, §1 (NEW) .]

1. Mercury-added product. "Mercury-added product" means any of the following items if it contains mercury added during manufacture:

- A. A thermostat or thermometer; [2001, c. 656, §1 (RPR) .]
- B. A switch or other device, individually or as part of another product, used to measure, control or regulate gas, other fluids or electricity; [2001, c. 656, §1 (RPR) .]
- C. A medical or scientific instrument; [2001, c. 656, §1 (RPR) .]
- D. An electric relay or other electrical device; and [2001, c. 656, §1 (RPR) .]
- E. A lamp. [2001, c. 656, §1 (RPR) .]

[2001, c. 656, §1 (RPR) .]

1-A. Amalgam separator system. "Amalgam separator system" means a device that removes dental amalgam from the waste stream prior to its discharge into either the local public wastewater system or a private septic system located at the dental facility and that meets a minimum removal efficiency of 95% if installed prior to March 20, 2003 or 98% if installed on or after March 20, 2003, as determined through testing in accordance with standards contained in "ISO 11143, Dental Equipment - Amalgam Separators," published by the International Organization for Standardization, in effect on the date the system is installed.

[2003, c. 301, §1 (NEW) .]

1-B. Dental amalgam. "Dental amalgam" means a mixture of silver and mercury used to restore dental integrity.

[2003, c. 301, §1 (NEW) .]

2. Mercury headlamp. "Mercury headlamp" is a mercury-added lamp that is mounted on the front of a motor vehicle to illuminate the roadway.

[2001, c. 656, §1 (NEW) .]

2-A. Mercury-added button cell battery. "Mercury-added button cell battery" means a button cell battery to which the manufacturer intentionally introduces mercury.

[2005, c. 509, §1 (NEW) .]

3. Mercury light switch. "Mercury light switch" means a mercury switch used for the purpose of turning a light bulb or lamp on and off.

[2001, c. 656, §1 (NEW) .]

3-A. Mercury relay. "Mercury relay" means a mercury-added product or device that opens or closes electrical contacts to effect the operation of other devices in the same or another electrical circuit. "Mercury relay" includes mercury displacement relays, mercury wetted reed relays and mercury contact relays.

[2003, c. 221, §1 (NEW) .]

4. Mercury switch. "Mercury switch" means a mercury-added product or device for measuring, controlling or regulating the flow of gas, other fluids or electricity. "Mercury switch" includes mercury float switches actuated by rising or falling liquid levels, mercury tilt switches actuated by a change in the switch position, mercury pressure switches actuated by a change in pressure, mercury temperature switches actuated by a change in temperature, mercury flame sensors and mercury connectors for making, breaking or changing the connection in an electrical circuit. "Mercury switch" does not include a mercury-added thermostat as defined in section 1665-B, subsection 1, paragraph B.

[2009, c. 277, §1 (AMD) .]

5. Motor vehicle component. "Motor vehicle component" means a mercury-added product that is a component in a motor vehicle. "Motor vehicle component" includes, but is not limited to, a mercury headlamp, a mercury light switch and a mercury switch in antilock braking systems.

[2001, c. 656, §1 (NEW) .]

6. Scrap recycling facility. "Scrap recycling facility" means a fixed location where machinery and equipment are used to process and manufacture scrap metal into prepared grades and whose principal product is scrap iron, scrap steel or nonferrous metallic scrap for sale for remelting purposes.

[2005, c. 148, §2 (NEW) .]

SECTION HISTORY

1999, c. 779, §2 (NEW). 2001, c. 373, §2 (AMD). 2001, c. 656, §1 (RPR). 2003, c. 221, §§1,2 (AMD). 2003, c. 301, §1 (AMD). 2005, c. 148, §2 (AMD). 2005, c. 509, §1 (AMD). 2009, c. 277, §1 (AMD).

§1661-A. NOTIFICATION

1. Prior written notice required. Effective January 1, 2002, a product to which mercury is intentionally added during formulation or manufacture, or a product containing one or more components to which mercury is intentionally added during formulation or manufacture, may not be offered for final sale or use or distributed for promotional purposes in the State unless the manufacturer of the product or product component or a trade association representing manufacturers of the product or component has provided written notice to the department in accordance with this section. The requirements of this section do not apply to drugs approved by the United States Food and Drug Administration. The notice must include the following information on a form provided by the department or the clearinghouse under section 1671:

A. A brief description of the product or product component; [2001, c. 373, §3 (NEW) .]

B. The purpose for which mercury is used in the product or product component; [2001, c. 373, §3 (NEW) .]

C. The amount of mercury in each unit of the product or product component, reported as an exact number, as an average per product or component with an upper or lower limit or as falling within a range approved by the department; [2001, c. 373, §3 (NEW) .]

D. The total amount of mercury in all units of the product or product components sold in the United States during the most recent calendar year for which sales figures are available, reported either for the units or components sold by the manufacturer or as aggregated by a manufacturer trade association for all units of the product or components made by the industry; and [2001, c. 373, §3 (NEW) .]

E. The name and address of the manufacturer, and the name, address and phone number of a contact person for the manufacturer. [2001, c. 373, §3 (NEW) .]

[2001, c. 373, §3 (NEW) .]

2. Exemption. A mercury-added product or product component for which federal law governs notice in a manner that preempts state authority is exempt from the requirements of this section.

[2001, c. 373, §3 (NEW) .]

3. Product category information. With the approval of the department, the manufacturer may supply the information required in subsection 1 for a product category rather than an individual product. The manufacturer shall update and revise the information in the notification whenever there is significant change in the information or when requested by the department. The information required under subsection 1, paragraph D must be updated and provided to the department every 3 years.

[2001, c. 373, §3 (NEW) .]

4. Confidentiality. Information submitted to the department pursuant to this section may be kept confidential as provided under sections 1310-B and 1671.

[2001, c. 373, §3 (NEW) .]

5. Product components. Notwithstanding subsection 1, paragraph C, the manufacturer of a product containing one or more mercury-added components is not required to include information on the amount of mercury in the component in the notice to the department if the component manufacturer has provided that information to the department and the manufacturer of the product that contains the component identifies the component and component manufacturer in the notice.

[2001, c. 626, §20 (AMD) .]

An importer of the product or product component from a foreign country may not sell, use or distribute the product or product component in the State unless the manufacturer of the product or product component is in compliance with this section, except that this prohibition does not apply to retailers for whom importing is not a primary business. [2001, c. 373, §3 (NEW) .]

SECTION HISTORY

2001, c. 373, §3 (NEW). 2001, c. 626, §20 (AMD).

§1661-B. DISCLOSURE FOR MERCURY-CONTAINING PRODUCTS USED IN HOSPITALS

Effective January 1, 2002, the manufacturer of a formulated product that contains mercury or a mercury compound from any source or cause, whether intended or unintended, and that is offered for sale or use to a hospital in the State must provide, upon request of the hospital, a certificate of analysis documenting the mercury content of the product unless the concentration is less than 200 parts per 1,000,000,000,000. The certificate must be based on representative samples of the product as determined in consultation with the hospital and, at a minimum, an annual analysis of the product. The hospital shall provide a copy of the certificate to the department upon request. For the purpose of this section, a "formulated product" means a

consistent mixture of chemicals, including, but not limited to, acids, alkalis, laboratory chemicals, bleach and other products used for cleaning or disinfection, pharmaceuticals, stains, reagents, preservatives, fixatives, buffers and dyes. [2001, c. 373, §3 (NEW).]

The requirements of this section do not apply to drugs approved by the United States Food and Drug Administration. [2001, c. 373, §3 (NEW).]

SECTION HISTORY

2001, c. 373, §3 (NEW).

§1661-C. RESTRICTIONS ON SALE AND USE OF MERCURY

1. Fever thermometers.

[2009, c. 501, §18 (RP) .]

2. Manometers.

[2009, c. 501, §19 (RP) .]

3. Schools. Effective January 1, 2002, bulk elemental or chemical mercury or mercury compounds may not be sold for use in a primary or secondary classroom in the State. Manufacturers of such materials shall notify wholesalers and retailers about this ban and shall instruct them on how to properly dispose of the remaining inventory. Mercury-added products used by schools are not subject to this ban.

[2001, c. 373, §3 (NEW) .]

4. Elemental mercury. Effective January 1, 2002, a person may not sell or provide elemental mercury to another person except for manufacturing or recycling purposes without providing that person with a material safety data sheet, as defined in 42 United States Code, Section 11049, and without requiring the purchaser or recipient to sign a statement that the purchaser or recipient:

A. Will use the mercury only for medical, dental amalgam dispose-caps or research purposes; [2003, c. 551, §18 (AMD) .]

B. Understands that mercury is toxic and that the purchaser will store and use it appropriately so that no person is exposed to the mercury; and [2001, c. 373, §3 (NEW) .]

C. Will not place or allow anyone under the purchaser's control to place or cause to be placed the mercury in solid waste for disposal or in a wastewater treatment and disposal system. [2001, c. 373, §3 (NEW) .]

[2003, c. 551, §18 (AMD) .]

5. Mercury-added thermostats.

[2009, c. 277, §2 (RP) .]

6. Instruments and measuring devices. Effective July 1, 2006, a person may not sell or offer to sell or distribute the following mercury-added products:

A. A barometer; [2003, c. 221, §4 (NEW) .]

B. An esophageal dilator, bougie tube or gastrointestinal tube; [2003, c. 221, §4 (NEW) .]

C. A flow meter; [2003, c. 221, §4 (NEW) .]

D. A hydrometer; [2003, c. 221, §4 (NEW) .]

E. A hygrometer or psychrometer; [2003, c. 221, §4 (NEW).]

F. A manometer; [2009, c. 501, §20 (AMD).]

G. A pyrometer; [2003, c. 221, §4 (NEW).]

H. A sphygmomanometer; or [2003, c. 221, §4 (NEW).]

I. A thermometer. [2009, c. 501, §21 (AMD).]

This subsection does not apply to the sale of a mercury-added product listed in paragraphs A to I if use of the product is a federal requirement or if the only mercury-added component in the product is a button cell battery.

[2009, c. 501, §§20, 21 (AMD).]

7. Mercury switches and relays. Effective July 1, 2006, a person may not sell or offer to sell or distribute a mercury switch or mercury relay individually or as a product component. This prohibition does not apply if the switch or relay is used to replace a switch or relay that is a component in a larger product in use prior to July 1, 2006 and one of the following applies:

A. The larger product is used in manufacturing; or [2003, c. 221, §4 (NEW).]

B. The switch or relay is integrated and not physically separate from other components of the larger product. [2003, c. 221, §4 (NEW).]

This subsection does not apply to the sale of a mercury switch or mercury relay if use of the switch or relay is a federal requirement.

[2003, c. 221, §4 (NEW).]

8. Exemptions. Subsections 6 and 7 do not apply to the sale of a mercury-added product for which an exemption is obtained under this subsection. The manufacturer or user of the product may apply for an exemption by filing a written petition with the commissioner. The commissioner may grant an exemption with or without conditions upon finding that:

A. The exemption is requested because the mercury-added product is required to meet specific advanced technology product specifications identified by the customer or end user of the product; or [2003, c. 221, §4 (NEW).]

B. The mercury-added product is reasonable and appropriate for a specific use. In this situation, the petitioner must demonstrate that:

(1) A system exists for the proper collection, transportation and processing of the product at the end of its life; and

(2) One of the following applies:

(a) Use of the product provides a net benefit to the environment, public health or public safety when compared to available nonmercury alternatives; or

(b) Technically feasible nonmercury alternatives are not available at comparable cost.

[2003, c. 221, §4 (NEW).]

Prior to approving an exemption, the commissioner may consult with neighboring states, by means of the interstate clearinghouse under section 1671 or otherwise, to promote consistency in the way in which mercury-added products are regulated. The commissioner may request individuals receiving an exemption to maintain records and provide reasonable reports to the department that characterize mercury use. Exemptions may be granted for a term not to exceed 5 years and may be renewed upon written application if the commissioner finds that the mercury-added product continues to meet the criteria of this subsection and the manufacturer or other persons comply with the conditions of its original approval. The board shall adopt rules

for processing exemption applications that provide for public participation, taking into account the role of the interstate clearinghouse. Rules adopted under this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

[2003, c. 221, §4 (NEW) .]

9. Button cell batteries. This subsection governs the sale of mercury-added button cell batteries.

A. After December 31, 2011, a person may not sell or offer to sell or distribute for promotional purposes a mercury-added button cell battery identified in this paragraph or a product that contains a mercury-added button cell battery identified in this paragraph:

- (1) A zinc-air button cell battery;
- (2) An alkaline manganese button cell battery; or
- (3) A silver oxide button cell battery stamped with the designation 357, 364, 371, 377, 395, SR44W, SR621SW, SR626SW, SR920SW or SR927SW or a silver oxide button cell battery that is interchangeable with a battery that is stamped with one of those designations; and [2011, c. 206, §24 (AMD) .]

B. After January 1, 2015, a person may not sell or offer to sell or distribute for promotional purposes a silver oxide mercury-added button cell battery or a product that contains a silver oxide mercury-added button cell battery. [2009, c. 86, §1 (NEW) .]

[2011, c. 206, §24 (AMD) .]

10. Sale of used products. Subsections 6 and 7 do not apply to the sale of used products.

[2007, c. 98, §1 (NEW) .]

11. Mercuric oxide batteries. A person may not sell, distribute or offer for sale in this State a consumer mercuric oxide button cell battery. The sale and use of all other types of mercuric oxide batteries is subject to the requirements of section 2165.

[2011, c. 206, §25 (NEW) .]

12. Alkaline manganese and zinc-carbon batteries. A person may not sell, distribute or offer for sale in this State the following batteries:

- A. An alkaline manganese battery that contains any added mercury; or [2011, c. 206, §26 (NEW) .]
- B. A zinc carbon battery that contains any added mercury. [2011, c. 206, §26 (NEW) .]

[2011, c. 206, §26 (NEW) .]

SECTION HISTORY

2001, c. 373, §3 (NEW). 2001, c. 620, §1 (AMD). 2003, c. 221, §§3,4 (AMD). 2003, c. 551, §18 (AMD). 2005, c. 509, §2 (AMD). 2007, c. 98, §1 (AMD). 2009, c. 86, §1 (AMD). 2009, c. 277, §2 (AMD). 2009, c. 501, §§18-22 (AMD). 2011, c. 206, §§24-26 (AMD).

§1662. LABELING AND CONSUMER INFORMATION

1. Labeling required for certain products. Effective January 1, 2002, a manufacturer may not sell at retail in this State or to a retailer in this State, and a retailer may not knowingly sell, a mercury-added product unless the item is labeled pursuant to this subsection. The label must clearly inform the purchaser or consumer

that mercury is present in the item and that the item may not be disposed of or placed in a waste stream destined for disposal until the mercury is removed and reused, recycled or otherwise managed to ensure that it does not become part of solid waste or wastewater. Manufacturers shall affix to mercury-added products labels that conform to the requirements of this subsection.

The board shall adopt rules to establish standards for affixing labels to the product and product package. The rules must strive for consistency with labeling programs in other states and provide for approval of alternative compliance plans by the department. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

This subsection applies to mercury-added lamps effective January 1, 2006, except that it does not apply to products containing mercury-added lamps. The manufacturer of a mercury-added lamp is in compliance with this subsection if the manufacturer labels all mercury-added lamps sold in this State in compliance with similar requirements adopted by another state.

[2005, c. 148, §3 (AMD) .]

2. Mercury-added lamps; large use applications. A person who sells mercury-added lamps to the owner or manager of an industrial, commercial or office building or to any person who replaces or removes from service outdoor lamps that contain mercury shall clearly inform the purchaser in writing on the invoice for the lamps or in a separate document that the lamps contain mercury, a hazardous substance that is regulated by federal and state law, and that they may not be placed in solid waste destined for disposal. Retail establishments that incidentally sell mercury-added lamps to the specified purchasers are exempt from the requirements of this subsection.

A person who contracts with the owner or manager of an industrial, commercial or office building or with a person responsible for outdoor lighting to remove from service mercury-added lamps shall clearly inform in writing the person for whom the work is being done that the lamps being removed from service contain mercury and what the contractor's arrangements are for the management of the mercury in the removed lamps.

[1999, c. 779, §2 (NEW) .]

SECTION HISTORY

1999, c. 779, §2 (NEW). 2005, c. 148, §3 (AMD).

§1663. DISPOSAL BAN

After July 15, 2002, a person may not knowingly place a mercury-added product in solid waste for disposal in a solid waste disposal facility. This section may not be construed to affect existing laws, rules or regulations governing disposal of mercury-added products prior to July 15, 2002. [1999, c. 779, §2 (NEW) .]

SECTION HISTORY

1999, c. 779, §2 (NEW).

§1664. SOURCE SEPARATION

1. Removal from service; products containing mercury. When a mercury-added product is removed from service, the mercury in the item must be reused, recycled or otherwise managed to ensure compliance with section 1663.

A person who is in the business of replacing or repairing a mercury-added product in households shall ensure, or deliver the item to a facility that will ensure, that the mercury contained in an item that is replaced or repaired is reused, recycled or otherwise managed in compliance with section 1663.

[1999, c. 779, §2 (NEW) .]

2. Thermostats.

[2009, c. 501, §23 (RP) .]

SECTION HISTORY

1999, c. 779, §2 (NEW). 2003, c. 640, §1 (AMD). 2009, c. 501, §23 (AMD).

§1665. AUTOMOBILE COMPONENT PARTS

(REPEALED)

SECTION HISTORY

1999, c. 779, §2 (NEW). 2001, c. 373, §4 (AMD). 2001, c. 656, §2 (RP).

§1665-A. MOTOR VEHICLE COMPONENTS

Notwithstanding sections 1663 and 1664, this section applies to a mercury-added product that is a motor vehicle component. [2001, c. 656, §3 (NEW).]

1. Prohibition on sale of new motor vehicles with mercury switches. A person may not sell a motor vehicle manufactured on or after January 1, 2003 if it contains a mercury switch. A motor vehicle manufacturer may apply to the commissioner for an exemption from this prohibition. The commissioner may grant an exemption upon finding that:

A. The manufacturer has provided assurance that a system exists for the proper removal and recycling of the mercury switch; and [2001, c. 656, §3 (NEW).]

B. Either of the following applies:

(1) Use of the mercury switch is necessary to protect public health or safety; or

(2) There are no technically feasible alternatives to the mercury switch at comparable cost.

[2001, c. 656, §3 (NEW).]

[2001, c. 656, §3 (NEW) .]

2. Prohibition on replacement mercury light switches. Effective January 1, 2003, a person may not sell or distribute a mercury light switch for installation in a motor vehicle.

[2001, c. 656, §3 (NEW) .]

3. Removal of certain mercury components when vehicle use ends. A person may not flatten, crush or bale a motor vehicle for the purpose of sending it to a scrap recycling facility, or arrange for a motor vehicle to be flattened, baled or crushed for that purpose, without first removing all mercury switches and mercury headlamps, except that a scrap recycling facility may agree to accept a motor vehicle that has not been flattened, crushed or baled. If a scrap recycling facility accepts such a motor vehicle, the scrap recycling facility is responsible for removing the mercury switches and mercury headlamps before the vehicle is flattened, crushed, baled or shredded. Upon removal, the components must be collected, stored, transported and otherwise handled in accordance with the universal waste rules adopted by the board under subsection 8.

[2005, c. 148, §4 (RPR) .]

4. Voluntary removal of mercury light switches prior to end of vehicle use. A motor vehicle dealer or any person engaged in motor vehicle repair or maintenance may participate in the mercury light switch removal and collection effort pursuant to subsection 5, as long as the person notifies the department before commencing removal and receives such training as may be required by the department. Any person who removes a mercury light switch from a motor vehicle before the motor vehicle is removed from service

shall affix an official sticker to the motor vehicle to indicate that the switch has been removed. The stickers may be obtained from the department and must be affixed to the doorpost or other location specified by the department. A person may not install a mercury light switch into a motor vehicle to which the sticker is affixed.

[2001, c. 656, §3 (NEW) .]

5. Motor vehicle manufacturer responsibility. Manufacturers of motor vehicles sold in this State that contain mercury switches or mercury headlamps shall, individually or collectively, do the following:

A. Establish a system to collect and recycle mercury switches removed pursuant to subsection 3. The system may consist of consolidation facilities geographically located to serve all areas of the State to which the switches may be transported by the persons performing the removal or any other collection methodology approved by the department. The system must be convenient to use, must accept the switches free of charge and may not provide for collection of the switches at an automobile dealership; [2009, c. 277, §3 (AMD) .]

B. Pay for each mercury switch brought to the consolidation facilities as partial compensation for the removal, storage and transport of the switches a minimum of \$4 if the vehicle identification number or year, make and model of the source vehicle is provided. If the vehicle identification number or year, make and model of the source vehicle is not provided, no payment is required; [2011, c. 206, §27 (AMD) .]

C. Ensure that mercury switches collected pursuant to paragraph A are managed in accordance with the universal waste rules adopted by the board under subsection 8; and [2009, c. 277, §3 (AMD) .]

D. Provide the department and persons who remove motor vehicle components under this section with information, training and other technical assistance required to facilitate removal and recycling of the components in accordance with the universal waste rules adopted by the board under subsection 8, including, but not limited to, information identifying the motor vehicle models that contain or may contain mercury switches or mercury headlamps. [2001, c. 656, §3 (NEW) .]

The goal of this collection and recycling effort is to minimize mercury emissions to the environment by ensuring that all mercury switches are removed from motor vehicles for recycling before the vehicles are flattened, baled or crushed.

In complying with the requirements of this subsection, manufacturers of motor vehicles shall establish a system that does not require a person who removes a mercury switch to segregate switches separately according to each manufacturer of motor vehicles from which the switches are removed.

[2011, c. 206, §27 (AMD) .]

6. Department responsibility. The department shall:

A. Assist those subject to the source separation requirements of this section by providing training on the universal waste rules adopted by the board under subsection 8 and by taking other steps as determined appropriate to provide for the safe removal and proper handling of motor vehicle components; [2001, c. 656, §3 (NEW) .]

B. Design and distribute the stickers required under subsection 4; and [2001, c. 656, §3 (NEW) .]

C. Make available to the public information concerning services to remove mercury light switches in motor vehicles. [2001, c. 656, §3 (NEW) .]

[2001, c. 656, §3 (NEW) .]

7. Labeling. Effective July 15, 2002, the labeling requirements of section 1662 apply to motor vehicle components. In approving an alternative compliance plan for labeling for motor vehicles under section 1662, the commissioner shall require a motor vehicle manufacturer to apply a doorpost label listing the mercury-added products that may be components in the motor vehicle. The commissioner may not require a manufacturer to affix a label to each mercury-added component.

[2001, c. 656, §3 (NEW) .]

8. Rulemaking. The board shall revise the universal waste rules adopted pursuant to section 1319-O, subsection 1, paragraph F as necessary to establish standards by which mercury switches in motor vehicles may be handled as universal waste.

[2001, c. 656, §3 (NEW) .]

9. Reporting. Before January 1, 2003 and annually thereafter, motor vehicle manufacturers doing business in the State shall report to the joint standing committee of the Legislature having jurisdiction over natural resources matters on any fee or other charge collected on the sale of new motor vehicles for the purpose of paying the cost of carrying out the manufacturer responsibilities under subsection 5. The report must specify the amount of the fee or charge collected and how the amount of the fee or charge was determined. When the commissioner determines that the number of mercury switches available for collection is too small to warrant continuation of the program, the department shall recommend to the joint standing committee of the Legislature having jurisdiction over natural resources matters that the mercury switch removal, collection and recycling requirements of this section be repealed. The committee may report out a bill repealing this section.

[2007, c. 655, §19 (AMD) .]

SECTION HISTORY

2001, c. 656, §3 (NEW). 2003, c. 6, §1 (AMD). 2005, c. 148, §§4,5 (AMD). 2005, c. 561, §9 (AMD). 2007, c. 292, §45 (AMD). 2007, c. 655, §19 (AMD). 2009, c. 277, §3 (AMD). 2011, c. 206, §27 (AMD).

§1665-B. MERCURY-ADDED THERMOSTATS

1. Definitions. For purposes of this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Manufacturer" means a person who owns or owned a brand of mercury-added thermostats sold in the State before January 1, 2006. [2009, c. 277, §4 (NEW) .]

B. "Mercury-added thermostat" or "mercury thermostat" means a product or device that uses a mercury switch to sense and control room temperature through communication with heating, ventilating or air conditioning equipment. "Mercury-added thermostat" or "mercury thermostat" includes a thermostat used to sense and control room temperature in residential, commercial, industrial and other buildings but does not include a thermostat used to sense and control temperature as part of a manufacturing process. [2009, c. 277, §4 (NEW) .]

C. "Retailer" means a person who sells thermostats of any kind directly to homeowners or other nonprofessionals through any selling or distribution mechanism, including, but not limited to, sales using the Internet or catalogues. [2009, c. 277, §4 (NEW) .]

D. "Wholesaler" means a business that the department determines is primarily engaged in the distribution and selling of heating, ventilation and air conditioning components to contractors that install heating, ventilation and air conditioning components. [2011, c. 206, §28 (AMD) .]

[2011, c. 206, §28 (AMD) .]

1-A. Prohibitions. The following prohibitions apply to the sale or distribution of mercury thermostats in the State.

A. A person may not sell or offer to sell or distribute for promotional purposes a mercury thermostat. [2009, c. 277, §5 (NEW).]

B. A manufacturer not in compliance with this section is prohibited from offering any thermostat for sale in the State. A manufacturer not in compliance with this section shall provide the necessary support to retailers to ensure the manufacturer's thermostats are not offered for sale in this State. [2009, c. 277, §5 (NEW).]

C. A wholesaler or retailer may not offer for sale in this State any thermostat of a manufacturer that is not in compliance with this section. [2009, c. 277, §5 (NEW).]

[2009, c. 277, §5 (NEW).]

2. Manufacturer responsibility. Each manufacturer of mercury-added thermostats that have been sold in this State shall, individually or collectively:

A. Establish and maintain a collection and recycling program for out-of-service mercury-added thermostats. The collection and recycling program must be designed and implemented to ensure that:

- (1) A maximum rate of collection of mercury-added thermostats is achieved;
- (2) Handling and recycling of mercury-added thermostats are accomplished in a manner that is consistent with section 1663, with other provisions of this chapter and with the universal waste rules adopted by the board pursuant to section 1319-O;
- (3) Authorized bins for mercury-added thermostat collection are made available at a reasonable one-time fee not to exceed \$25 to all heating, ventilation and air conditioning supply, electrical supply and plumbing supply distributor locations that sell thermostats and to all retailers who volunteer to participate in the program; and
- (4) By January 1, 2007, authorized bins for mercury-added thermostat collection are made available at a reasonable one-time fee not to exceed \$25 to municipalities and regions requesting bins for mercury-added thermostat collection at universal waste collection sites or at periodic household hazardous waste collection events, as long as the collection sites or events are approved by the department for mercury-added thermostat collections; [2011, c. 420, Pt. E, §1 (AMD); 2011, c. 420, Pt. E, §5 (AFF).]

B. Work cooperatively with the department and others in accordance with subsection 4 to establish appropriate systems in order to implement the plan developed pursuant to subsection 4; [2005, c. 558, §1 (NEW).]

C. Within 3 months after the department develops phase one of the plan required by subsection 4, implement phase one of the plan; [2005, c. 558, §1 (NEW).]

D. Within 3 months after the department develops phase 2 of the plan required by subsection 4, implement phase 2 of the plan; [2005, c. 558, §1 (NEW).]

E. Within 3 months after the department develops phase one of the plan required by subsection 4, provide a financial incentive with a minimum value of \$5 for the return of each mercury-added thermostat by a contractor or service technician to an established recycling collection point; [2011, c. 420, Pt. E, §2 (AMD); 2011, c. 420, Pt. E, §5 (AFF).]

F. Within 3 months after the department develops phase 2 of the plan required by subsection 4, provide a financial incentive with a minimum value of \$5 for the return of each mercury-added thermostat by a homeowner to an established recycling collection point; [2011, c. 420, Pt. E, §3 (AMD); 2011, c. 420, Pt. E, §5 (AFF).]

G. Beginning in 2008, submit an annual report to the department by January 30th of each year. The report must be submitted on a form provided by the department and must include at a minimum:

- (1) The number of mercury-added thermostats collected and recycled by that manufacturer pursuant to this section during the previous calendar year;
- (2) The estimated total amount of mercury contained in the thermostat components collected by that manufacturer pursuant to this section;
- (3) An evaluation of the effectiveness of the manufacturer's collection and recycling program and the financial incentive provided pursuant to paragraphs E and F;
- (4) An accounting of the administrative costs incurred in the course of administering the collection and recycling program and the financial incentive plan developed pursuant to subsection 4;
- (5) A description of the education and outreach strategies employed during the previous calendar year to increase participation and collection rates and examples of education and outreach materials used; and
- (6) Modifications that the manufacturer is proposing to make in its collection and recycling program; and [2009, c. 277, §8 (AMD) .]

H. Beginning January 1, 2010, submit a quarterly report to the department within 30 days after the end of each quarter that, for each shipment of thermostats received by the manufacturer or manufacturer's agent for recycling during the quarter, provides:

- (1) The collection location that shipped the thermostats;
- (2) The date the manufacturer received the shipment;
- (3) The number of mercury thermostats; and
- (4) The total amount of mercury collected. [2009, c. 277, §9 (NEW) .]

[2011, c. 420, Pt. E, §§1-3 (AMD); 2011, c. 420, Pt. E, §5 (AFF) .]

2-A. Wholesaler responsibility. A wholesaler may not sell a thermostat in the State unless the wholesaler acts as a collection site for thermostats that contain mercury. A wholesaler may meet the requirements of this subsection by participating as a collection site in a manufacturer collection and recycling program under subsection 2. A wholesaler shall post in a prominent location open to public view a notice about the financial incentive plan developed pursuant to subsection 4. The notice must be approved by the department and supplied by the manufacturer at no cost to the wholesaler.

[2009, c. 501, §24 (AMD) .]

2-B. Termination of retailer participation. A manufacturer may terminate a retailer's participation in the collection program under subsection 2, paragraph A only after complying with the provisions of this subsection.

A. The manufacturer must notify the retailer, in writing, of noncompliance with program policies and procedures and provide the retailer an opportunity to comply. [2009, c. 277, §11 (NEW) .]

B. If the retailer continues to send in significant ineligible materials through the collection program after 2 written notices of noncompliance, the manufacturer may terminate the retailer's participation. [2009, c. 277, §11 (NEW) .]

C. For termination to occur under this subsection, the manufacturer must notify the retailer and the department in writing. [2009, c. 277, §11 (NEW) .]

[2009, c. 277, §11 (NEW) .]

3. Sales prohibition.

[2009, c. 277, §12 (RP) .]

4. Financial incentive plan. The department shall develop a manufacturer financial incentive plan in 2 phases. By January 1, 2007, the department shall develop phase one of the plan, which must address collection of mercury-added thermostats from contractors and service technicians. By August 1, 2007, the department shall develop phase 2 of the plan, which must address collection of mercury-added thermostats from homeowners. The plan must be developed in consultation with a stakeholder group that includes representatives from the thermostat industry, environmental groups, thermostat wholesalers and service contractors. The plan must be developed in a manner that ensures to the maximum extent practical that:

- A. The capture rate of out-of-service mercury-added thermostats is maximized; [2005, c. 558, §1 (NEW) .]
- B. Adequate incentives and education are provided to contractors, service technicians and homeowners to encourage return of thermostats to established recycling collection points; [2005, c. 558, §1 (NEW) .]
- C. Administrative costs of the plan are minimized; [2005, c. 558, §1 (NEW) .]
- D. The plan encourages the purchase of nonmercury thermostats qualified by the United States Environmental Protection Agency's Energy Star program as replacements for mercury-added thermostats; and [2005, c. 558, §1 (NEW) .]
- E. Mechanisms are in place to protect against the fraudulent return of thermostats. [2005, c. 558, §1 (NEW) .]

The plan must include a requirement that manufacturers provide a financial incentive with a minimum value of \$5 for the return of each mercury-added thermostat to an established recycling collection point in accordance with subsection 2, paragraphs E and F. The financial incentive may include, without limitation, cash, rebates, discounts, coupons or other incentives.

[2005, c. 558, §1 (NEW) .]

5. Goals. The goal of the collection and recycling efforts under this section is to collect and recycle at least 125 pounds of mercury per year from mercury-added thermostats within 2 years after the development of phase one of the plan required by subsection 4 and at least 160 pounds of mercury per year within 3 years after the development of phase 2 of the plan required by subsection 4.

[2005, c. 558, §1 (NEW) .]

6. Report. Annually, the department shall submit to the joint standing committee of the Legislature having jurisdiction over natural resources matters a report that includes an evaluation of the effectiveness of the thermostat collection and recycling programs established under this section, information on actual collection rates and recommendations for any statutory changes concerning the collection and recycling of mercury-added thermostats. The report may be included in the report required pursuant to section 1772, subsection 1.

[2013, c. 315, §1 (AMD) .]

SECTION HISTORY

2005, c. 558, §1 (NEW). 2009, c. 277, §§4-12 (AMD). 2009, c. 501, §24 (AMD). 2011, c. 206, §§28-31 (AMD). 2011, c. 420, Pt. E, §§1-3 (AMD). 2011, c. 420, Pt. E, §5 (AFF). 2013, c. 315, §1 (AMD).

§1666. HOUSEHOLD HAZARDOUS WASTE EXEMPTION

A person who uses mercury-added products in that person's home is not subject to the provisions of section 1663 or 1664 until January 1, 2005 with respect to those products the person uses in that person's home and is not subject to fines or penalties for noncompliance with the provisions of section 1663 or 1664 with respect to those products the person uses in that person's home. [1999, c. 779, §2 (NEW).]

SECTION HISTORY

1999, c. 779, §2 (NEW).

§1667. DENTAL PROCEDURES

1. Prevention plan. By July 15, 2002, the department shall work with dentists and other interested parties to develop a pollution prevention plan for mercury from dental procedures that provides for reasonable measures to reduce mercury pollution from dental procedures and related sources. The plan must include options and strategies for implementing source reduction.

[2003, c. 301, §2 (NEW) .]

2. Dental office defined. For purposes of this section, "dental office" means any dental clinic, dental office or dental practice, but does not include the practice of oral and maxillofacial surgery.

[2003, c. 301, §2 (NEW) .]

3. Amalgam separator system required. No later than December 31, 2004, a dental office that, in the course of treating its patients, adds, removes or modifies dental amalgam must install an amalgam separator system in the wastewater line in accordance with the following:

- A. Wastewater containing dental amalgam particles must pass through the amalgam separator system prior to discharge to either a publicly owned treatment works or a private septic or waste disposal system, and waste containing dental amalgam must be collected from the amalgam separator system and disposed of in a manner satisfactory to the department; [2003, c. 301, §2 (NEW) .]
- B. Once the amalgam separator system has been installed, the dental office must notify the department in writing:
 - (1) Of the type of system installed;
 - (2) That the system is certified as meeting the standards required in accordance with section 1661, subsection 1-A;
 - (3) Of the date upon which the system became operational; and
 - (4) Of the method of disposing of the material after removal from the separator system.

If the amalgam separator system is connected to a publicly owned treatment works, the dental office shall provide the same notification to the director or chief engineer of that facility; [2003, c. 301, §2 (NEW) .]

C. Installation, operation and maintenance of an approved amalgam separator system by a dentist in accordance with manufacturer's recommendations must fulfill the requirements of this section. A dentist must demonstrate proper operation and maintenance by maintaining, for a period of 3 years, all shipping records for replacement filters sent to licensed recyclers and written documentation that demonstrates that the system has been properly inspected and maintained; and [2003, c. 301, §2 (NEW) .]

D. The department, after receiving proper notification of the installation of the amalgam separator system and after being satisfied that it meets the requirements of this section, must provide the dentist or the dental practice with written confirmation of receipt of evidence of compliance with this section in a format suitable for display by the dental office. [2003, c. 301, §2 (NEW).]

[2003, c. 301, §2 (NEW) .]

SECTION HISTORY

1999, c. 779, §2 (NEW). 2003, c. 301, §2 (RPR).

§1668. EDUCATION PROGRAM

The department shall implement an education program relating to mercury-added products no later than January 1, 2001. The program must provide information to the public about labeled mercury-added products, the requirements of the law regarding the source separation of waste mercury-added products and collection programs that are available to the public. [2011, c. 655, Pt. GG, §19 (AMD); 2011, c. 655, Pt. GG, §70 (AFF).]

SECTION HISTORY

1999, c. 779, §2 (NEW). 2011, c. 655, Pt. GG, §19 (AMD). 2011, c. 655, Pt. GG, §70 (AFF).

§1669. TECHNICAL ASSISTANCE TO MUNICIPALITIES

The department shall assist interested municipalities and regional associations in developing collection programs for mercury-added products. [2011, c. 655, Pt. GG, §20 (AMD); 2011, c. 655, Pt. GG, §70 (AFF).]

SECTION HISTORY

1999, c. 779, §2 (NEW). 2011, c. 655, Pt. GG, §20 (AMD). 2011, c. 655, Pt. GG, §70 (AFF).

§1670. MERCURY PRODUCTS ADVISORY COMMITTEE

(REPEALED)

SECTION HISTORY

1999, c. 779, §2 (NEW). 2001, c. 373, §5 (AMD). 2003, c. 551, §19 (AMD). MRS T. 38, §1670, sub-§9 (RP).

§1671. INTERSTATE CLEARINGHOUSE

The department may participate in the establishment and implementation of a regional, multistate clearinghouse to assist in carrying out the requirements of this chapter and to help coordinate reviews of the manufacturer notifications under section 1661-B, applications for alternative labeling under section 1662, education and outreach activities and any other activities related to the administration of this chapter. Notwithstanding section 1310-B, subsection 2, the department may provide the interstate clearinghouse with product information submitted to the department under section 1661-A and the department and the interstate clearinghouse may compile or publish analyses or summaries of such information provided the analyses or summaries do not identify any manufacturer or reveal any confidential information. [2001, c. 373, §6 (NEW).]

SECTION HISTORY

2001, c. 373, §6 (NEW).

§1672. MERCURY-ADDED LAMPS

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

- A. "Manufacturer" means a person who manufactures a mercury-added lamp and has a presence in the United States or a person who imports a mercury-added lamp manufactured by a person who does not have a presence in the United States. [2009 , c. 272 , §1 (NEW) .]
- B. "Mercury-added lamp" means an electric lamp to which mercury is intentionally added during the manufacturing process, including, but not limited to, linear fluorescent, compact fluorescent, black light, high-intensity discharge, ultraviolet and neon lamps. [2009 , c. 272 , §1 (NEW) .]
- C. "Municipal collection site" means a solid waste disposal facility, transfer station, storage facility or recycling facility at which mercury-added lamps from households are collected for recycling that is municipally owned or operated or operated by a regional association. [2009 , c. 272 , §1 (NEW) .]
- D. "Person" means any individual, corporation, partnership, cooperative, association, firm, sole proprietorship, government agency or other entity. [2009 , c. 272 , §1 (NEW) .]

[2009 , c. 272 , §1 (NEW) .]

2. Mercury content standards. The following provisions govern mercury content standards.

A. The department shall adopt rules establishing mercury content standards for lamps sold or manufactured in the State on or after January 1, 2012. The standards must be based on mercury content standards for lamps established in California. If one or more categories of lamps are not covered by the mercury content standards established in California, the department may adopt standards minimizing the mercury content of lamps within those categories, including adoption of a no-mercury standard if a nonmercury alternative is available at a cost comparable to a mercury alternative. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [2009 , c. 272 , §1 (NEW) .]

B. The rules adopted under paragraph A must provide that:

- (1) A manufacturer of mercury-added lamps sold or being offered for sale in the State shall prepare and, at the request of the department, submit within 28 days of the date of the request technical documentation or other information showing that the manufacturer's mercury-added lamps sold or offered for sale in the State comply with the rules. If the manufacturer of a mercury-added lamp being sold or offered for sale does not provide the documentation requested, that manufacturer may not be allowed to sell or offer for sale mercury-added lamps in the State; and
- (2) A manufacturer of mercury-added lamps sold or being offered for sale in the State shall provide upon request a certification to a person who sells or offers for sale a mercury-added lamp of that manufacturer. The certification must attest that the mercury-added lamp does not contain levels of mercury that would result in the prohibition of that lamp being sold or offered for sale in the State. If the manufacturer of a mercury-added lamp being sold or offered for sale does not provide the certification requested, that manufacturer may not be allowed to sell or offer mercury-added lamps for sale in the State. [2009 , c. 272 , §1 (NEW) .]

[2009 , c. 272 , §1 (NEW) .]

3. Mercury-added lamp purchasing. When making purchasing decisions on mercury-added lamps and ballasts, the Department of Administrative and Financial Services, in consultation with the department and the Public Utilities Commission, shall request information on mercury content, energy use, lumen output and lamp life from potential suppliers and shall issue specifications and make purchasing decisions that favor models at comparable cost with high energy efficiency, lower mercury content and longer lamp life.

Information obtained on mercury content, energy use and lamp life must be made available by the Department of Administrative and Financial Services to other purchasers who purchase a large number of mercury-added lamps. This information must also be posted on the State's publicly accessible website.

[2009, c. 272, §1 (NEW) .]

4. Manufacturer recycling programs for household mercury-added lamps. Effective January 1, 2011, each manufacturer of mercury-added lamps sold or distributed for household use in the State on or after January 1, 2001 shall individually or collectively implement a department-approved program for the recycling of mercury-added lamps from households.

A. The recycling program required under this subsection must include:

- (1) Convenient collection locations located throughout the State where residents can drop off their household lamps without cost, including but not limited to municipal collection sites and participating retail establishments;
- (2) Handling and recycling equipment and practices in compliance with the universal waste rules adopted pursuant to section 1319-O, subsection 1, paragraph F, with subsection 6 if a crushing device is used and with all other applicable requirements;
- (3) Effective education and outreach, including, but not limited to, point-of-purchase signs and other materials provided to retail establishments without cost; and
- (4) An annual report to the department on the number of mercury-added lamps recycled under the manufacturer's program, the estimated percentage of mercury-added lamps available for recycling that were recycled under the program and the methodology for estimating the number of mercury-added lamps available for recycling, an evaluation of the effectiveness of the recycling program, recommendations for increasing the number of lamps recycled under the recycling program and an accounting of the costs associated with administering and implementing the recycling program.

[2011, c. 275, §1 (AMD) .]

B. A manufacturer required to implement a recycling program under this subsection shall submit its proposed recycling program for department review and approval. The department shall solicit public comment on the proposed program before approving or denying the program. [2009, c. 272, §1 (NEW) .]

C. Beginning April 1, 2011, a manufacturer not in compliance with this section is prohibited from offering any mercury-added lamp for final sale in the State or distributing any mercury-added lamp in the State. A manufacturer not in compliance with this section shall provide support to retailers to ensure the manufacturer's mercury-added lamps are not offered for sale, sold at final sale or distributed in the State. [2009, c. 272, §1 (NEW) .]

D. Beginning April 1, 2011, a retailer may not offer for final sale a mercury-added lamp produced by a manufacturer not in compliance with this section. The department shall notify retailers of the manufacturers of mercury-added lamps not in compliance with this section. [2009, c. 272, §1 (NEW) .]

E. Beginning in 2013, and biennially thereafter, the department shall calculate the percentage of mercury-added lamps recycled from households and report to the joint standing committee of the Legislature having jurisdiction over natural resources matters on any modifications to the manufacturer recycling programs it intends to make to improve mercury-added lamp recycling rates and any recommendations for statutory changes needed to facilitate mercury-added lamp collection and recycling. The report may be included in the report required pursuant to section 1772, subsection 1. [2013, c. 315, §2 (AMD) .]

F. The department may determine that a manufacturer's recycling program is in compliance with paragraph A, subparagraphs (1), (2) and (4) for the collection of compact fluorescent lamps from households if the manufacturer provides adequate financial support for the collection and recycling of such lamps to municipalities and a conservation program established pursuant to Title 35-A, section 10110 and implemented by the Efficiency Maine Trust. [2009, c. 2, §117 (COR).]

[2013, c. 315, §2 (AMD) .]

5. Applicability. The requirements of this section do not apply to motor vehicles as defined in Title 29-A, section 101, subsection 42 or watercraft as defined in Title 12, section 13001, subsection 28 or their component parts.

[2009, c. 272, §1 (NEW) .]

6. Lamp crushing. A recycling program required under subsection 4 may include the use of crushing devices in accordance with the provisions of this subsection.

A. The owner of the crushing device shall:

- (1) Register the device with the department. The registration must include:
 - (a) The owner's name and contact information;
 - (b) The brand of device used;
 - (c) Anticipated usage of the device; and
 - (d) A statement that the operating manual required pursuant to subparagraph (2) is in place;
- (2) Develop an operating manual specifying how to safely crush mercury-added lamps. The operating manual must be available to all operators of the device and must include:
 - (a) Procedures for operation and maintenance of the device in accordance with written procedures developed by the manufacturer of the device;
 - (b) Testing and monitoring procedures;
 - (c) Information concerning mercury hazards, crushing procedures, waste handling and emergency procedures;
 - (d) An assessment of whether surrounding areas will be negatively affected, either by physical proximity or air exchange with a heating, ventilation and air conditioning system;
 - (e) Proper waste management practices;
 - (f) Procedures for operator training to ensure operators have been trained in the operation and maintenance of equipment, including, but not limited to, engineering controls to mitigate mercury releases and personal protective equipment use; and
 - (g) Procedures to address emergency situations, including, but not limited to, procedures to address mercury hazards, waste handling and equipment failure;
- (3) Document maintenance activities, retain maintenance logs, test data from the manufacturer and any additional test data acquired and make available a copy of these records to the department at its request;
- (4) Meet all federal Occupational Safety and Health Administration requirements;
- (5) Dispose of all material crushed in the device;
- (6) Maintain on file an annual report for review by the department, at the discretion of the department, indicating the:
 - (a) Total volume of mercury-added lamps crushed;
 - (b) Volume and disposition of any carbon or other filter from the device; and

(c) Names of the destination facilities to which all crushed material was shipped; and

(7) Maintain testing and monitoring data. [2011, c. 275, §2 (NEW).]

B. The crushing device may be operated only in a closed system and in such a manner that any emission of mercury from the crushing device does not exceed 0.3 micrograms per cubic meter when measured on the basis of a time-weighted average over an 8-hour period. [2011, c. 275, §2 (NEW).]

C. The crushing device may be operated only in a secure, ventilated area and may not be operated in an area accessible to the general public. [2011, c. 275, §2 (NEW).]

[2011, c. 275, §2 (NEW).]

SECTION HISTORY

RR 2009, c. 2, §117 (COR). 2009, c. 272, §1 (NEW). 2011, c. 275, §§1, 2 (AMD). 2013, c. 315, §2 (AMD).

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